

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JUDITH THIBEAU and
GEORGE THIBEAU,
Plaintiffs,

v.

EAST BOSTON NEIGHBORHOOD
HEALTH CENTER CORPORATION,
Defendant.

DOCKET NO: 04CV10951MLW

CERTIFICATION OF FILING
ALL PAPERS REQUIRED BY LOCAL RULE 8.1

I, Tory A. Weigand, attorney for the defendant, hereby affirm that the attached are certified copies of all records and proceedings in the Suffolk County Superior Court, including the filing of the Notice of Removal.

Respectfully Submitted,
The Defendant,
EAST BOSTON NEIGHBORHOOD
HEALTH CENTER,
By their attorneys,

MORRISON, MAHONEY & MILLER, LLP

/s/ Tory A. Weigand

Tory A. Weigand, BBO #548553
250 Summer Street
Boston, MA 02210-1181
(617) 439-7500

I hereby certify that a true copy of the
above document was served upon the attorney
of record for each party by mail on 5/21/04

/s/ Tory A. Weigand

Tory A. Weigand

MAS-20030912
guenCommonwealth of Massachusetts
SUFFOLK SUPERIOR COURT
Case Summary
Civil Docket05/13/2004
03:50 PM**SUCV2004-01415**
Thibeau et al v East Boston Neighborhood Health Center

File Date	04/02/2004	Status	Disposed: transfered to other court (dtrans)
Status Date	05/13/2004	Session	B - Civil B
Origin	1	Case Type	B20 - Personal Injury-Slip&Fall
Lead Case		Track	F

Service	07/01/2004	Answer	08/30/2004	Rule12/19/20	08/30/2004
Rule 15	08/30/2004	Discovery	01/27/2005	Rule 56	02/26/2005
Final PTC	03/28/2005	Disposition	05/27/2005	Jury Trial	Yes

Plaintiff
Judith Thibeau
Active 04/02/2004

Private Counsel 543597
James L Frederick
Frederick & Associates (James L)
1330 Beacon Street
Suite 311
Brookline, MA 02446
Phone: 617-738-7880
Fax: 617-738-9497
Active 04/02/2004 Notify

Plaintiff
George Thibeau
Active 04/02/2004

*** See Attorney Information Above ***

Defendant
East Boston Neighborhood Health Center
Health Center Corporation
Service pending 04/02/2004

Private Counsel 276000
Peter C Knight
Morrison Mahoney & Miller
250 Summer Street
Boston, MA 02210-1181
Phone: 617-439-7500
Fax: 617-439-7590
Active 05/13/2004 Notify

Private Counsel 548553
Tory A Weigand
Morrison Mahoney & Miller
250 Summer Street
Boston, MA 02210-1181
Phone: 617-439-7500
Fax: 617-439-7590
Active 05/13/2004 Notify

Date	Paper	Text
04/02/2004	1.0	Complaint & jury demand on complaint (all issues)

MAS-20030912

guen

**Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT
Case Summary
Civil Docket**

05/13/2004

03:50 PM

SUCV2004-01415**Thibeau et al v East Boston Neighborhood Health Center**

Date	Paper	Text
04/02/2004		Origin 1, Type B20, Track F.
04/02/2004	2.0	Civil action cover sheet filed
04/12/2004	3.0	Amended complaint & jury demand (all issues)
05/13/2004		Certified copy of petition for removal to U. S. Dist. Court of Deft. East Boston Neighborhood Health Center Corporation U. S. Dist.#(04-CV-10951MLW).
05/13/2004		Case REMOVED this date to US District Court of Massachusetts

WHEREBY ATTEST AND CERTIFY ON

**MAY 14, 2004, THAT THE
FORGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.**

**MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT**

BY: 

ASSISTANT CLERK.

1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT
C.A. NO. 04-

04-1415

JUDITH THIBEAU and
GEORGE THIBEAU
Plaintiffs

v.

EAST BOSTON NEIGHBORHOOD
HEALTH CENTER CORPORATION
Defendant

COMPLAINT

1. Plaintiff Judith Thibeu is an adult who lives at 53 Chaucer Street, East Boston, Massachusetts.
2. Plaintiff George Thibeu is an adult who lives at 53 Chaucer Street, East Boston, Massachusetts, is married to plaintiff Judith Thibeu and was so married on September 26, 2002.
3. Defendant East Boston Neighborhood Health Center Corporation operates the East Boston Neighborhood Health Center which has offices at 79 Paris Street, East Boston, Suffolk County, Massachusetts.
4. Defendant owns the building which is located at 79 Paris Street, East Boston, Suffolk County, Massachusetts.
5. Defendant maintains the building which is located at 79 Paris Street, East Boston, Suffolk County, Massachusetts.
6. On September 24, 2002 Judith Thibeu was a lawful visitor at a building located at 79 Paris Street, East Boston, Suffolk County, Massachusetts.
7. The purpose of Judith Thibeu's visit to the Health Center at 79 Paris Street was to have her eyes examined at the Vision Center of the East Boston Neighborhood Health Center [hereinafter referred to as "the Vision Center"].
8. The Vision Center is located on the second floor of the building at 79 Paris Street, East Boston.
9. The Vision Center is a subdivision of the defendant.

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
JUN 04 - 2 P 1:35
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

9. The Vision Center is a subdivision of the defendant.
10. The defendant administers the Vision Center.
11. The defendant is responsible for the maintenance of the premises located at 79 Paris Street, East Boston [hereinafter referred to as "the premises"]
12. The defendant owed a duty to protect lawful visitors such as Judith Thibeu against dangerous conditions on the premises.
13. The defendant owed a duty to lawful visitors such as Judith Thibeu to keep the premises reasonably safe.
14. On September 24, 2002 Judith Thibeu had her eyes examined at the Vision Center.
15. As part of her examination the the Vision Center administered dilating eye drops to Ms. Thibeu's eyes.
16. As a result of having her eyes dilated, Ms. Thibeu's' vision was impaired.
17. After her examination, and after having her eyes dilated, Ms. Thibeu left the Vision Center, and walked down the stairs of the building located at 79 Paris Street to the first floor of that building.
18. As Judith Thibeu walked down the stairs of the building located at 79 Paris Street she fell, thereby suffering personal injuries.
19. Plaintiff has incurred expenses for medical treatment of her injuries of approximately \$217,000.
20. The defendant breached its duty of care to Ms. Thibeu and was therefore negligent by failing to provide Ms. Thibeu with a warning of the consequences and effect of dilation on Ms. Thibeu's vision.
21. The defendant breached its duty of care to Ms. Thibeu and was therefore negligent by failing to warn Ms. Thibeu that visual impairment caused by eye dilation would make it difficult and dangerous to walk down stairs.
22. The defendant failed to warn Ms. Thibeu that the vision impairment caused by the dilation would create a risk of harm to her in walking down the stairs.
23. The defendant breached its duty of care to Ms. Thibeu and was therefore negligent by failing to warn or advise Ms. Thibeu that there was an alternative to using the stairs (the elevator) that would alleviate the risk of walking down the stairs in a visually impaired condition.

24. The defendant breached its duty of care to Ms. Thibeu and was therefore negligent by failing to post a notice that the elevator was in service and available for visually impaired patients to travel from the second floor to the ground floor.
25. The aforementioned elevator would have allowed Ms. Thibeu to avoid the risk of harm that the stairs represented.
26. The defendant breached its duty to obtain Ms. Thibeu's informed consent for performing the eye dilation procedure on her by failing to warn her of the risks involved in the eye dilation procedure and by failing to warn Ms. Thibeu of the specific risks that the procedure would create for her in using the stairs at the Health Center.
27. The defendant breached its duty of care to Ms. Thibeu and was therefore negligent by failing to provide an adequate handrail where the stairs ended and where Ms. Thibeu fell.
28. The proximate cause of the aforementioned accident was the negligence of the defendant.
29. As a result of the injuries suffered by Ms. Thibeu, her husband George Thibeu has lost the companionship of his wife.
30. As a result of the injuries suffered by Ms. Thibeu, her husband George Thibeu has had to expend time and energy in caring for his wife.
31. As a result of the injuries suffered by Ms. Thibeu, her husband George Thibeu has suffered an interruption of and harm to his marital relationship with his wife.

COUNT I

32. Plaintiff repeats and realleges the allegations of paragraphs 1-31 as if fully set forth herein.
33. The negligence of defendant proximately caused plaintiff severe injury and disability, pain of body and mind, significant medical bills (present and future), and lost earning capacity.

WHEREFORE, the plaintiff Judith Thibeu, respectfully demands judgment against the defendant, in a full, fair and just amount together with interest, costs and, if applicable, attorneys fees.

COUNT II

34. Plaintiff repeats and realleges the allegations of paragraphs 1-31 as if fully set forth herein.

35. The negligence of defendant proximately caused injury to plaintiff Judith Thibeu and thereby caused plaintiff George Thibeu to suffer a loss of companionship, services and consortium of his wife, Judith Thibeu.

WHEREFORE, the plaintiff George Thibeu, respectfully demands judgment against the defendant, in a full, fair and just amount together with interest, costs and attorneys fees if applicable.

JURY CLAIM

Plaintiff claims a trial by jury on all claims and issues so triable.

I HEREBY ATTEST AND CERTIFY ON

MAY 14, 2004 THAT THE

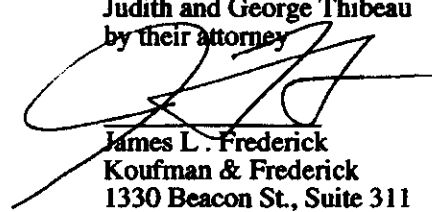
FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY 

ASSISTANT CLERK.

Plaintiffs
Judith and George Thibeu
by their attorney


James L. Frederick
Koufman & Frederick
1330 Beacon St., Suite 311
Brookline, MA 02446

CIVIL ACTION COVER SHEET	DOCKET NO.(S) 04-1415	Trial Court of Massachusetts Superior Court Department County: SUFFOLK
PLAINTIFF(S) Judith Thibeau and George Thibeau		DEFENDANT(S) East Boston Neighborhood Health Center Corporation
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE 617-738-7880 James L. Frederick, Esq. Koufman & Frederick, LLP 1330 Beacon St., Suite 311, Brookline, MA 02446 Board of Bar Overseers number: #543597		ATTORNEY (if known)
Origin code and track designation		
Place an x in one box only:		
<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)	
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)	
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 6. E10 Summary Process Appeal (X)	
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)		
CODE NO. 0 0 20	TYPE OF ACTION (specify) TORT/SLIP & FALL	IS THIS A JURY CASE? (F) (X) Yes () No
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses	over \$ 129,000	
2. Total Doctor expenses	over \$ 23,000	
3. Total chiropractic expenses	over \$ 1,400	
4. Total physical therapy expenses	over \$ 64,000	
5. Total other expenses (describe) antibiotics, drugs, lab. exp., x-rays	Subtotal \$ 217,400	
B. Documented lost wages and compensation to date not presently available		
C. Documented property damages to date		
D. Reasonably anticipated future medical and hospital expenses not presently available		
E. Reasonably anticipated lost wages		
F. Other documented items of damages (describe)		
G. Brief description of plaintiff's injury, including nature and extent of injury (describe) Comminuted fractures of left ankle fibula /hospitalizations, Complications and delay in healing causing numerous scarring, ankle fusion and impairment of function.		
		TOTAL \$ 217,400
CONTRACT CLAIMS (Attach additional sheets as necessary)		
Provide a detailed description of claim(s):		
		TOTAL \$
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record <i>James L. Frederick</i>		DATE: <i>4/2/04</i>

AOTC-6 mic005-11/99
A.O.S.C. 1-2000I HEREBY ATTEST AND CERTIFY ON
MAY 14, - 2004THAT THE
FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT*Lorraine A. Antosca*

ASSISTANT CLERK.

COMMONWEALTH OF MASSACHUSETTS

3

SUFFOLK, SS

SUPERIOR COURT
C.A. NO. 04-1415

JUDITH THIBEAU and
GEORGE THIBEAU
Plaintiffs

v.

EAST BOSTON NEIGHBORHOOD
HEALTH CENTER CORPORATION
Defendant

SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE
2004 APR 12 A 10:30
MICHAEL JUSTIN DENOVAN
CLERK/MAGISTRATE

PLAINTIFFS' FIRST AMENDED COMPLAINT

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2. Plaintiff George Thibeu is an adult who lives at 53 Chaucer Street, East Boston, Massachusetts, is married to plaintiff Judith Thibeu and was so married on September 26, 2002.
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